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TO: Mail Stop Issue Fee

COMPANY: USPTO

FAX NO.: 571-273-2885

FROM: Kevin D McCarthy

RE: 10/614,672 ; Confirmation # 7328

DATE: 9/6/06

NUMBER OF PAGES TRANSMITTED: COVER 9 = 10

MESSAGE:

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Thank you.

3. It has now been discovered that such status as a small entity was maintained in error.

Itemization of the Fee(s) Erroneously Paid as Small Entity

Note: 37 C.F.R. § 1.28(c)(2): "Payment of deficiency owed. The deficiency owed, resulting from the previous erroneous payment of small entity fees, must be paid

(i) Calculation of the deficiency owed. The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;

(ii) Itemization of the deficiency payment. An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

NOTE: 37 C.F.R. § 1.28(c)(3): "Failure to comply with requirements. If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office."

4.

**FEE(S) ERRONEOUSLY PAID
AS A SMALL ENTITY**

**FEE ACTUALLY
PAID AS A
SMALL ENTITY**

**DEFICIENCY
OWED***

☐ Fee for excess independent claims (10 independent claims, 7 independent claims were properly paid for as a small entity prior to April 7, 2006, and the three additional independent claims that were submitted on April 7, 2006 were erroneously paid as a small entity) paid on

April 7, 2006

\$ 300

\$ 300

WARNING:

"The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment. The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between time the

fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error. . . 37 C.F.R. § 1.28(c)(2)(i).

NOTE: 37 C.F.R. § 1.28(b)(2): "The date when a deficiency payment is paid in full determines the amount of deficiency that is due pursuant to paragraph (c) of this section."

Total deficiency owed \$ 300

NOTE: 37 C.F.R. § 1.28(d): "Payment of deficiency operates as notification of loss of status. Any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under paragraph (c) of this section will be treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status."

Payment of Deficiency

5. The total deficiency owed is paid as follows:

☒ Authorization is hereby made to charge the amount of \$ 300 to Credit card as shown on the attached credit card information authorization form PTO-2038.

WARNING: Credit card information should not be included on this form as it may become public.

A duplicate of this paper is attached.

Respectfully submitted:



Kevin D. McCarthy

Reg. No.: 35,278

Roach, Brown, McCarthy & Gruber, P.C.
1620 Liberty Building, 420 Main Street
Buffalo, New York 14202
Tel. No.: 716-852-0400

Patent Owner's Docket No. 0-03-152

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Slatkine
Application No.: 10/614,672
Filed: July 7, 2003
For: Method and Apparatus for Improving Safety During Exposure to a
Monochromatic Light Source
Examiner: Rahll, Jerry T.
Group No. 2874
Confirmation No. 7328

Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTIFICATION OF ERROR IN PAYMENT OF FEE(S) AS A SMALL ENTITY
(37 C.F.R. § 1.28(c))

NOTE: 37 C.F.R. § 1.28(c): "(c) How errors in small entity status are excused. If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that such status as a small entity was established in error, or that through error the Office was not notified of a loss of entitlement to small entity status as required by § 1.27(g)(2), the error will be excused upon: compliance with the separate submission and itemization requirements of paragraphs (c)(1) and (c)(2) of this section, and the deficiency payment requirement of paragraph (c)(2) of this section."

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

I hereby certify that, on the date shown below, this correspondence is being deposited with the United States Postal Service in an envelope addressed to the Mail Stop ISSUE FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 with sufficient postage as first class mail or facsimile transmitted to the Patent and Trademark Office, 571-273-2885

Date: September 6, 2006

Kevin D. McCarthy

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f).

Erroneous Filing of Small Entity Statement

1. On April 7, 2006 a small entity assertion was erroneously maintained in this application.
2. This assertion and maintaining of small entity status in this application and the payment of fee(s) as a small entity was made in good faith.

3. It has now been discovered that such status as a small entity was maintained in error.

Itemization of the Fee(s) Erroneously Paid as Small Entity

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<u>FEE(S) ERRONEOUSLY PAID AS A SMALL ENTITY</u>	<u>FEE ACTUALLY PAID AS A SMALL ENTITY</u>	<u>DEFICIENCY OWED*</u>
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Payment of Deficiency

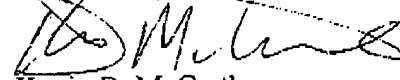
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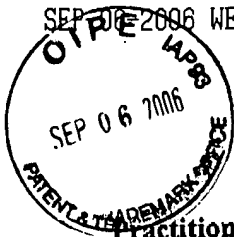
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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